

class I, Group VI controlled substances until January 1, 2001. A nation listed in appendix C to this subpart (Parties to the Montreal Protocol) must agree to transfer to the person for the current control period some amount of production that the nation is permitted under the Montreal Protocol. If the controlled substance is to be returned to the Party from whom allowances are received, the request for consumption allowances shall also be considered a request for production allowances under § 82.9(c). For trades from a Party, the person must obtain from the principal diplomatic representative in that nation's embassy in the United States a signed document stating that the appropriate authority within that nation has established or revised production limits for the nation to equal the lesser of the maximum production that the nation is allowed under the Protocol minus the amount transferred, the maximum production that is allowed under the nation's applicable domestic law minus the amount transferred, or the average of the nation's actual national production level for the three years prior to the transfer minus the production allowances transferred. The person must submit to the Administrator a transfer request that includes a true copy of this document and that sets forth the following:

- (1) The identity and address of the person;
  - (2) The identity of the Party;
  - (3) The names and telephone numbers of contact persons for the person and for the Party;
  - (4) The chemical type and level of production being transferred;
  - (5) The control period(s) to which the transfer applies; and
  - (6) For increased production intended for export to the Party from whom allowances would be received, a signed statement of intent to export to this Party.
- (d) On the first day of each control period, until January 1, 1996, the Agency will grant consumption allowances to any person that produced and exported a Group IV controlled substance in the baseline year and that was not granted baseline consumption allowances under § 82.5.

(1) The number of consumption allowances any such person will be granted for each control period will be equal to the number of production allowances granted to that person under § 82.7 for that control period.

(2) Any person granted allowances under this paragraph must hold the same number of unexpended consumption allowances for the control period for which the allowances were granted by February 15 of the following control period. Every kilogram by which the person's unexpended consumption allowances fall short of the amount the person was granted under this paragraph constitutes a separate violation.

#### **§ 82.11 Exports to Article 5 Parties.**

(a) If apportioned Article 5 allowances under § 82.9(a), a person may produce class I controlled substances, in accordance with the prohibitions in § 82.4, to be exported (not including exports resulting in transformation or destruction, or used controlled substances) to foreign states listed in appendix E to this subpart (Article 5 countries).

(1) A person must submit a notice to the Administrator of exports to Article 5 countries (except exports resulting in transformation or destruction, or used controlled substances) at the end of the quarter that includes the following:

- (i) The identities and addresses of the exporter and the Article 5 country recipient of the exports;
- (ii) The exporter's Employee Identification Number;
- (iii) The names and telephone numbers of contact persons for the exporter and for the recipient;
- (iv) The quantity and the type of controlled substances exported, its source and date purchased;
- (v) The date on which, and the port from which, the controlled substances were exported from the United States or its territories;
- (vi) The Article 5 country to which the controlled substances were exported;
- (vii) A copy of the bill of lading and invoice indicating the net quantity shipped and documenting the sale of the controlled substances to the Article 5 purchaser;

(viii) The commodity code of the controlled substance exported; and

(ix) A copy of the invoice or sales agreement covering the sale of the controlled substances to the recipient Article 5 country that contains provisions forbidding the reexport of the controlled substance in bulk form and subjecting the recipient or any transferee of the recipient to liquidated damages equal to the resale price of the controlled substances if they are reexported in bulk form.

(2) [Reserved]

(b) [Reserved]

#### § 82.12 Transfers.

(a) Inter-company transfers.

(1) Until January 1, 1996, for all class I controlled substances, except for Group VI, and until January 1, 2001, for Group VI, any person ("transferor") may transfer to any other person ("transferee") any amount of the transferor's consumption allowances or production allowances, and effective January 1, 1995, for all class I controlled substances any person ("transferor") may transfer to any other person ("transferee") any amount of the transferor's Article 5 allowances, as follows:

(i) The transferor must submit to the Administrator a transfer claim setting forth the following:

(A) The identities and addresses of the transferor and the transferee;

(B) The name and telephone numbers of contact persons for the transferor and the transferee;

(C) The type of allowances being transferred, including the names of the controlled substances for which allowances are to be transferred;

(D) The group of controlled substances to which the allowances being transferred pertains;

(E) The amount of allowances being transferred;

(F) The control period(s) for which the allowances are being transferred;

(G) The amount of unexpended allowances of the type and for the control period being transferred that the transferor holds under authority of this subpart as of the date the claim is submitted to EPA; and

(H) The amount of the one percent offset applied to the unweighted

amount traded that will be deducted from the transferor's allowance balance (except for trades from transformers and destroyers to producers or importers for the purpose of allowance reimbursement).

(ii) The Administrator will determine whether the records maintained by EPA, taking into account any previous transfers and any production, allowable imports and exports of controlled substances reported by the transferor, indicate that the transferor possesses, as of the date the transfer claim is processed, unexpended allowances sufficient to cover the transfer claim (i.e., the amount to be transferred plus, in the case of transferors of production or consumption allowances, one percent of that amount). Within three working days of receiving a complete transfer claim, the Administrator will take action to notify the transferor and transferee as follows:

(A) If EPA's records show that the transferor has sufficient unexpended allowances to cover the transfer claim, the Administrator will issue a notice indicating that EPA does not object to the transfer and will reduce the transferor's balance of unexpended allowances by the amount to be transferred plus, in the case of transfers of production or consumption allowances, one percent of that amount. When EPA issues a no objection notice, the transferor and the transferee may proceed with the transfer. However, if EPA ultimately finds that the transferor did not have sufficient unexpended allowances to cover the claim, the transferor and transferee will be held liable for any violations of the regulations of this subpart that occur as a result of, or in conjunction with, the improper transfer.

(B) If EPA's records show that the transferor has insufficient unexpended allowances to cover the transfer claim, or that the transferor has failed to respond to one or more Agency requests to supply information needed to make a determination, the Administrator will issue a notice disallowing the transfer. Within 10 working days after receipt of notification, either party may file a notice of appeal, with supporting reasons, with the Administrator. The Administrator may affirm